

**TOWN OF DAVIE
REGULAR MEETING
AUGUST 20, 2003**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:50 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Truex, Vice-Mayor Starkey and Councilmembers Crowley, Hubert and Paul. Also present were Town Administrator Willi, Town Attorney Kiar and Town Clerk Muniz (departed 12:30 a.m.) and Assistant Town Clerk McDaniel recording the meeting.

3. PRESENTATIONS

3.1. Debbie Brown

Debbie Brown read a letter to the Town Council written by her son who was in the armed forces serving in Iraq. Mayor Truex read a letter from another member of the armed services.

3.2. Take-A-Kid Fishing - Bonnie Stafiej

Mayor Truex recognized and thanked the volunteers who participated in this event.

3.3. Quarterly Employee Recognition Awards - Mark Alan

Human Resources Director Mark Alan presented the Employee Recognition Award to Officer Craig Albertini; Parks and Recreation Supervisor John Cassaro; and Accounting Services Supervisor Pat Kuznof.

3.4. Legislative Update - David Siegerson

No presentation was made.

3.5. Institute for Elected Municipal Officials

Mayor Truex presented Vice-Mayor Starkey with a certificate of completion from the Institute of Municipal Officials.

3.6. RW Beck - Solid Waste Contract Consultant

Chuck McClendon of RW Beck indicated the pros and cons of the automated vs. manual collection system. He felt that when bids came in after the request for proposal, Council would have to consider many options such as pricing options, automated collections, frequency and container size. Mr. McClendon indicated that automated collection would improve community aesthetics and he outlined the proposed procurement schedule which indicated a commencement date of October 1, 2004.

Councilmember Paul felt that the request for proposal should keep the container sizes equivalent to what residents currently used. She was concerned about the larger estate homeowners and their ability to transport the 96 gallon carts to the road. Councilmember Paul felt the residents wanted the frequency of bulk pick-up to increase.

Vice-Mayor Starkey would like to see a draft of the request for proposal circulated to Council to solicit their input. Assistant Town Administrator Ken Cohen felt that he and Public Relations Coordinator Susan Dean should meet with Council individually when the draft request for proposal was prepared.

3.7. Police Explorers - Chief John George

Chief George introduced Officer Scott Yoder who announced five police explorers who earned recognition at a recent competition.

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Mayor Truex advised that staff had requested that item 4.5 be withdrawn.

Mayor Truex announced that item 4.22 needed to be tabled to September 3, 2003.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 6.6 needed to be tabled to September 3, 2003

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 4.16 needed to be tabled to November 5, 2003

Councilmember Paul made a motion, seconded by Councilmember Crowley, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 6.11 needed to be tabled to September 3, 2003.

Councilmember Crowley made a motion, seconded by Vice-Mayor Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 6.12 needed to be tabled to September 3, 2003.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 6.13 needed to be tabled to September 3, 2003.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to add item 9.5 to the agenda. In a voice vote, all voted in favor. (Motion carried 5-0)

9.5 TU 7-8-03, Nova Southeastern University, 3301 College Avenue

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

4.1. July 8, 2003 - Regular Meeting

Proclamation

4.2. Broward Community College Women's Tennis Team Day (August 20, 2003)

Home Occupational Licenses

4.3. Bruce Block, 11021 SW 42 Court

4.4. Performance Lawn Service, 4001 SW 111 Avenue

4.5. Southern Landscaping Enterprises Inc., 5130 SW 64 Avenue

4.6. Toscano Pressure Cleaning, 14000 SW 20 Street

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Resolutions

- 4.7. **CONTRACT RESTORATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING THE RESTORATION OF INITIAL LANGUAGE TO TOWN ADMINISTRATOR'S CONTRACT TO REQUIRE A MAJORITY VOTE OF TOWN COUNCIL IN THE EVENT OF DISMISSAL WITHOUT CAUSE; INCLUDING A PROVISION FOR A TWELVE (12) MONTH SEVERANCE; AMENDING THE EXISTING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from August 6, 2003)
- R-2003-201
- 4.8. **PLAT REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE SUBDIVISION PLAT KNOWN AS THE PRIMA PROFESSIONAL CAMPUS PLAT; AND PROVIDING AN EFFECTIVE DATE. (DG 3-3-03, Village Parc Townhomes, 7901 Davie Road Extension) (tabled from August 6, 2003)
- 4.9. **REPLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING APPLICATION DG 8-1-03, CONSENTING TO AN AMENDMENT TO THE REQUIRED IMPROVEMENTS AGREEMENT FOR THE SPIELMAN-MARGOLIS REPLAT (168-46); AND PROVIDING FOR AN EFFECTIVE DATE. (northwest corner of University Drive and Orange Drive) (tabled from August 6, 2003)
- R-2003-202
- 4.10. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING AN ANNEXATION AGREEMENT BETWEEN THE TOWN OF DAVIE AND JOLMY ENTERPRISES, INC. AND PROVIDING AN EFFECTIVE DATE.
- 4.11. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING RESOLUTION R-2003-57; AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH BROWARD COUNTY TO OPERATE A "FAMILY SUCCESS CENTER" IN DAVIE IN ORDER TO PROVIDE SOCIAL/PUBLIC SERVICES AND EMERGENCY ASSISTANCE TO DAVIE'S LOWER-INCOME FAMILIES AND INDIVIDUALS.
- R-2003-203
- 4.12. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION FOR A \$25,000 GRANT FROM THE STATE THOROUGHFARE BEAUTIFICATION GRANT PROGRAM ADMINISTERED BY BROWARD BEAUTIFUL; AND IF AWARDED THE GRANT, AUTHORIZING ITS ACCEPTANCE AND EXECUTION (WITH \$25,000 IN MATCHING FUNDS).
- R-2003-204
- 4.13. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION FOR A GRANT FROM THE FLORIDA DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES, NATIONAL URBAN & COMMUNITY FORESTRY GRANT PROGRAM FOR \$10,000 WITH \$5,000 MATCHING FUNDS (CASH) AND \$5000 MATCHING FUNDS (IN-KIND); AND IF AWARDED THE GRANT, AUTHORIZING ITS ACCEPTANCE AND EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.
- R-2003-205

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- 4.14. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2003-206 THE BID FOR JANITORIAL SERVICES FOR THE POLICE DEPARTMENT
BUILDING. (Jigga Cleaning Service - \$31,980/year)
- 4.15. **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A
R-2003-207 BOUNDARY PLAT KNOWN AS SHM PARCEL AND AUTHORIZING THE
MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY
AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT;
AND PROVIDING AN EFFECTIVE DATE. (P 6-4-02 SHM Parcel, Pulice Land
Surveyors, Inc./Laurence A. Mauer, 5800 Davie Road) Planning and Zoning Board
recommended approval
- 4.16. **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A
BOUNDARY PLAT KNOWN AS WOODBRIDGE RANCHES AND AUTHORIZING
THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY
AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT;
AND PROVIDING AN EFFECTIVE DATE (P 7-2-02, Woodbridge Ranches, Pulice
Land Surveyors, Inc./Southern Homes of Davie III, 1750 SW 136 Avenue) *Planning and
Zoning Board recommended denial*
- 4.17. **PLAT AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-208 AUTHORIZING AN AMENDMENT TO THE NON-VEHICULAR ACCESS LINE OF
THE "FALCON'S LEA" PLAT AND AUTHORIZING AN AMENDMENT TO THE
RESTRICTIVE NOTE OF THE "FALCON'S LEA" PLAT, AND PROVIDING AN
EFFECTIVE DATE. (DG 6-2-03, 14900 Stirling Road)
- 4.18. **PLAT AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-209 AUTHORIZING AN AMENDMENT TO THE RESTRICTIVE NOTE OF THE
"IMAGINATION FARMS EAST" PLAT, AND PROVIDING AN EFFECTIVE DATE.
(DG 7-1-03, 13605 Orange Drive)
- 4.19. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-210 FLORIDA, APPROVING APPLICATION DG 8-1-03, CONSENTING TO AN
AMENDMENT TO THE REQUIRED IMPROVEMENTS AGREEMENT FOR THE
SPIELMAN-MARGOLIS REPLAT (168-46); AN PROVIDING AN EFFECTIVE
DATE. (northwest corner of University Drive and Orange Drive)
- 4.20. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-211 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER
INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY,
AND WESTBROOKE HOMES, BG PINE ISLAND CORPORATION AND 77 ACRES
TRUST, FOR THE INSTALLATION OF REQUIRED IMPROVEMENTS RELATING
TO THE PINE ISLAND COMMERCIAL PLAT; TO ACKNOWLEDGE SUCH
APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND
PROVIDING AN EFFECTIVE DATE. (DA 7-1-03, Pine Island Plat, 8501 Orange Drive)

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- 4.21. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2003-212 **AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND G.L. HOMES OF DAVIE ASSOCIATES IV, LTD. FOR THE INSTALLATION OF REQUIREMENT IMPROVEMENTS RELATING TO THE SHOTGUN EAST PLAT; CONSTRUCTION OF CERTAIN ROAD IMPROVEMENTS;; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. (DA 7-2-03, Shotgun East Plat, 4201 SW 154 Avenue)**

Site Plans

- 4.22. SP 10-7-02, Warren Henry/Regency Square, 4801-4991 SW 148 Avenue (PUD) (tabled from August 6, 2003) *Site Plan Committee recommended approval with the conditions that the applicant send a letter to the president of the homeowner's association [Chelsea Homeowners' Association] stating the date when this item was to be reviewed by the Town Council; and that the lighting levels on the east side of the buildings be at the lowest possible levels that the Police Department would allow after 9:00 p.m.*
- 4.23. SP 6-3-02, Stone Creek, 7690 Stirling Road (RM-8) (tabled from August 6, 2003) *Site Plan Committee recommended denial*
- 4.24. SP 2-6-03, Village Parc Townhomes, 7901 Davie Road Extension (B-2) (tabled from August 6, 2003) *Site Plan Committee recommended approval based on these remaining items from the planning report: 1) That the pedestrian crossways at the community facilities be concrete pavers; 2) that the park area by the cabana would be shown with the benches and picnic tables; 3) that the applicant would correct LS-1 and ST-1 to match the site plan; 4) that the relocation of existing trees be discussed with the Town's Urban Forester Mike Orfanedes for his opinion on whether they would be moved to good locations; 5) that items 6, 7, 9 and 10 remain to be left to the direction of Mr. Orfanedes; 6) that the pool house needs corrections and needs a larger plan showing the bathrooms; take out the planters and have a five-foot wall with plantings on the inside at the pool deck area as well as landscaping on the outside of the wall; 7) label the roof material on the plans; 8) that the parking in front of the units should be labeled 18-foot wide driveways thereby eliminating the compact indication in the spaces in front of the units; make an 18-foot paved area and increase the green area between those driveways; and then look into whether or not a tree could be placed in the larger green area; 9) put in the vertical banding on the unit's rear elevations which would be at the unit separations; 10) provide a photometric plan; make certain that SP-2 and DO-2 match; show the lighting poles and their locations; if base protection was needed because no protective curbing was by the light poles, a poured concrete base may be needed to which the light pole would be mounted; 11) postal delivery was recommended to be located at the cabana area in one central pavilion with "pull off" areas off the main drive, if the Post Office approves*

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- 4.25. SP 1-1-03, Brookside, 6800 Griffin Road (A-1, Griffin Corridor District, West Gateway) *Planning and Zoning Board recommended approval subject to staff's recommendations and the following: 1) provide a flagstone footpath in a "dry set" on the east sides of both northern lakes; 2) make stabilized grass access paths for pedestrians to circumnavigate along the southern and western boundaries of the main lake; 3) that the balconies on the ten-unit buildings be functional; 4) embellish architectural features on the rear of the two office buildings so they look more like the fronts; and 5) attempt to negotiate one more time with the Broward County Department of Transportation and the property owner of the parcel in the middle of the development regarding traffic access on Griffin Road*
- 4.26. SP 4-6-03, Orange Park, 7921 SW 45 Street (B-2) *Site Plan Committee recommended approval based on the planning report; that the circulation plan shown on the architectural and engineering both match; that a two-way drive be provided around the parking area; that the existing fence be fixed or removed if it belongs to the applicant; and if keeping any portion of the existing house, it should be shown on the site plan and floor plan*

Councilmember Hubert requested that items 4.7, 4.10 and 4.11 be removed from the Consent Agenda. Vice-Mayor Starkey requested that items 4.9, 4.19 and 4.26 be removed. Councilmember Paul requested that items 4.8, 4.24 and 4.25 be removed. Mayor Truex requested that item 4.23 be removed.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve the Consent Agenda without items 4.7, 4.8, 4.9, 4.10, 4.11, 4.19, 4.23, 4.24, 4.25 and 4.26. In a voice vote, all voted in favor. (Motion carried 5-0)

4.2 Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to take this item out of order. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex read the proclamation and presented the proclamation to the team members.

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.7 Mr. Willi distributed an amendment in which he offered to revert to the original language of March 1, 2003 and remove the supermajority clause in exchange for a 12-month severance and other considerations.

Mr. Kiar summarized an amended contract that he and Mayor Truex prepared which included verbiage from contracts utilized by other municipalities in Broward County. Mayor Truex expressed frustration that Council had not received a copy of the amended agreement that he and Mr. Kiar prepared.

Mr. Willi expressed his frustration with the process. He stated he was offering to remove the supermajority language from his contract and with this removal, Section 3C referring to the liability cap, would also need to be removed. Mr. Willi indicated that he was willing to return to the regular majority and was merely asking for an additional three months' severance pay and minor revisions to two sections which he felt was a large cost savings to the Town. He was concerned with the items that Mr. Kiar indicated and felt that the language was vague and would allow for petty politics to enter into his position. Mayor Truex felt that the amended agreement was a fair offer.

Vice-Mayor Starkey felt the position of the Town Administrator should be held to a higher standard than that of the average employee. She felt that the language in the personnel rules was identical to that in the language in the amended agreement. Vice-Mayor Starkey was opposed to a 12-month severance pay following termination as well as the fact that he would be able to collect a severance package from the Town of Davie and draw a salary from another city.

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Councilmember Paul felt that the amended contract was ludicrous and felt that the definitions used in the agreement were gray. She complimented Mr. Willi on his performance and felt that the entire agreement was ridiculous.

Councilmember Crowley felt that Mr. Willi's contract requests were not unreasonable and stated that he was in favor of item C under Mr. Kiar's offered agreement.

Mr. Kiar stated that he did not understand why Mr. Willi would have an objection to provision C of his proposed agreement with the removal of the supermajority issue. Mr. Willi stated that it was based on the fact that it did not exist before the inclusion of the supermajority language and if he is going to delete that language, then provision C needed to be deleted as well.

Councilmember Hubert indicated that she voted to repeal the supermajority issue from Mr. Willi's contract because she was under the impression that she would be allowed to work with Mr. Willi on negotiating for 12-month severance. She stated that if it was going to be anything different, then she would not be in favor of removing the supermajority issue, but would be in favor of restoring Mr. Willi's contract to its original state.

Mr. Willi asked Councilmember Crowley if he had a liability cap in his employment contract with the District and if that contract had similar language. Councilmember Crowley responded in the affirmative but indicated that the language was not the same.

Councilmember Paul made a motion, seconded by Councilmember Hubert, to approve the contract addendum offered by Mr. Willi. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Starkey - no; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 3-2)

4.10 Councilmember Hubert indicated that this item affected her district and she requested that Hope Outreach be considered as a charity.

Steve Moody, attorney representing Jolmy Enterprises, distributed several photographs to Council which gave an overview of the Jolmy site. He indicated that staff, and the Local Planning Agency/Planning and Zoning Board were of the opinion that Jolmy Enterprises was entitled to the three billboards. Mr. Moody indicated that an amendment to the annexation agreement outlined charitable donations, sign heights and other items. Development Services Director Mark Kutney distributed the amended agreement to Council.

Vice-Mayor Starkey indicated that the amended agreement included charitable donations which the original did not. She asked special counsel Michael Burke whether this was permissible in the contract. Vice-Mayor Starkey stated that she was under the impression that it was a voluntary agreement between charitable organizations and not an agreement with the Town. Mr. Burke indicated that Jolmy was willing to obligate itself to make certain charitable donations by way of contract.

Mr. Burke indicated that Broward County's code allowed Jolmy to erect billboards with size provisions. He stated that when Jolmy annexed into Davie, the pre-annexation agreement included the right to erect billboard signs and that the County code would apply to the signage. Mr. Burke stated that Jolmy was seeking to either amend the agreement or seek a variance from the 35-foot height limitation.

Mayor Truex asked if Jolmy had a legal right to erect taller signs with Mr. Burke indicating that they did not have a legal right, but they could do so if Council granted them a variance. Mayor Truex stated that he was not in favor of the billboards.

Councilmember Hubert felt that Jolmy had the right to erect the billboards, but that the issue was the height. Mayor Truex agreed, but stated that they should not be higher than 35 feet. Councilmember Hubert stated that the truckstop and billboards were in her district and asked that Council vote in favor of the billboards to help the residents in her district.

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Joe Little, representing Viacom Media, felt that Jolmy was entitled to the billboards and felt that the 35-foot height limitation would render the signs worthless.

Councilmember Paul indicated that that she was torn on the issue. She stated that while she was not in favor of billboards, she felt that the billboards would help Jolmy generate cash flow to help with vertical construction. Mr. Moody felt that the billboards would affect Jolmy's financial health in funding this project. Councilmember Paul expressed concern that if action was taken on this issue, then subsequently, those who had been previously denied would come back asking for approval.

Councilmember Paul made a motion to table the item. The motion died due to the lack of a second.

Councilmember Hubert made a motion to approve the height issue for the residents of her district. The motion died due to the lack of a second.

Mayor Truex passed the gavel and made a motion, seconded by Vice-Mayor Starkey, to deny. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Paul - no. (Motion carried 3-2)

4.11 Councilmember Hubert questioned whether the services could continue after two years. Director of Housing and Community Development Shirley Taylor-Prakelt stated that the County was providing the services for two years, strictly because the Town did not have a facility available in perpetuity; therefore, a site was chosen because of its two-year availability with the intent, after two years, to construct a facility or find another location.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.9 Vice-Mayor Starkey asked how many times an adequacy determination had been done since 1989. Barbara Hall, representing the petitioner, indicated that this was a request to allow a County review process for concurrency. She stated that if a principle building was not constructed, the adequacy determination would expire December 15, 2003. Ms. Hall stated that this was a request to allow the Town's consent to go before the County for another adequacy determination.

Vice-Mayor Starkey again asked if there had been an adequacy determination prior to the original agreement with the County. Ms. Hall stated that an adequacy review was done at the time the plat was originally approved by the County in 1998 which expires December 15, 2003.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor with Councilmember Paul dissenting. (Motion carried 4-1)

4.19 Barbara Hall, representing the petitioner, explained that the amendment to the phasing agreement in which a driveway opening is required at University and Orange Drive.

Councilmember Crowley made a motion, seconded by Vice-Mayor Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.26 Vice-Mayor Starkey questioned whether the applicant would agree to a tree survey. She wanted to ensure that the canopy of oaks were protected and not destroyed or relocated. Barbara Hall, representing the petitioner, stated that a tree survey had been completed and submitted to staff. She stated that the oaks that Vice-Mayor Starkey referred to were not on the site plan and would not be affected.

Neil Kalis, representing Margolis Enterprises, stated that the Town Code required that certain trees be protected. He stated that there was one tree on the site that would be a protected tree.

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Councilmember Paul was concerned whether a Master Plan was in mind. Ms. Hall stated that they did not have a Master Plan. She stated that the first building being constructed would not have any adverse impact on the site or be detrimental to the reasonable development of the entire site.

Councilmember Paul asked if there would be an opening onto Orange Drive. Ms. Hall responded in the negative. Councilmember Paul questioned whether the greenspace would later become outparcel. Ms. Hall stated that it was currently functioning as drainage for the site.

Vice-Mayor Starkey asked where the building would be in relation to the ficus trees and whether the trees would be preserved. Ms. Hall did not feel that the building would impact the trees. Juan Cassario, representing the petitioner, indicated that the building was located in the same vicinity of the existing structure and stated that the impact to the trees, if any, would be minimal. Councilmember Paul asked that the applicant stipulate to that fact. Ms. Hall indicated in the affirmative.

Shawn Snyder, representing the landowner of the adjacent west property line, stated that the landowner had not been previously noticed of the proposed changes until August 15, 2003. He indicated that he would like to have time to discuss the issue and asked that this item be tabled until the next Council meeting.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to table to September 3, 2003. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

4.23 Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARINGS

Ordinances - Second and Final Reading

- 6.1. **VACATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2003-28 **APPROVING PETITION VA 5-1-02, VACATING RIGHT-OF-WAY AND EASEMENTS WITHIN SECTION 26, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND WITHIN THE PLAT KNOWN AS NOVA PLAZA ADDITION (129-26); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 5-1-02, Cassidy, 6045 SW 45 Street) *Planning and Zoning Board recommended approval* {Approved on First Reading August 6, 2003 - all voted in favor with Councilmember Hubert being absent}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Crowley made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

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- 6.2. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2003-29 APPROVING REZONING PETITION ZB 7-1-03, AMENDING THE LEGAL DESCRIPTION OF THE WESTERN THEME DISTRICT BOUNDARIES OBTAINED IN LAND DEVELOPMENT CODE SECTION 12-386, ENTITLED "BOUNDARIES"; TO CHANGE THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT, WESTERN THEME OVERLAY; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (CRA/FMC Telecommunications, 6075 SW 45 Street) *Planning and Zoning Board recommended approval {Approved on First Reading August 6, 2003 - all voted in favor with Councilmembers Hubert and Paul being absent}*

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Crowley made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

- 6.3. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
2003-30 APPROVING REZONING PETITION ZB 11-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4 (County), LIMITED HEAVY INDUSTRIAL DISTRICT (FORMAN AGREEMENT) TO BP, BUSINESS PARK DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (ZB 11-1-02, University Commons/College Business Park, 6535-6555 Nova Drive) (tabled from August 6, 2003) *Planning and Zoning Board recommended approval Approved on First Reading August 6, 2003 - all voted in favor with Councilmembers Hubert and Paul being absent}*

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Jon Voight, representing the applicant, explained the rezoning request.

Mayor Truex closed the public hearing.

Councilmember Hubert made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - out of the room; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 4-0)

Ordinances - First Reading (Second and Final Reading to be held September 3, 2003)

- 6.4. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**
APPROVING CODE AMENDMENT APPLICATION ZB(TXT)7-1-03, AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF DAVIE, AMENDING SECTION 12-34 ENTITLED "STANDARDS ENUMERATED" TO PROVIDE FOR DETAILED USE REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Detailed use regulations for the RO zoning district)

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Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 3, 2003.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Vice-Mayor Starkey asked Planning and Zoning Manager Fernando Leiva to explain the history of the request which he provided. Mr. Kutney gave further detail on the history in relation to the comprehensive plan.

Vice-Mayor Starkey indicated that she was not in favor of the request. She added that she would vote in favor if the ordinance was amended to exclude banks and financial institutions.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - no; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 4-1)

- 6.5. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING ORDINANCE 74-33 ESTABLISHING THE TOWN OF DAVIE'S PERSONNEL RULES AND REGULATIONS AND AMENDING ALL SUBSEQUENT ORDINANCES AMENDING SAID ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Later in the meeting, Councilmember Paul made a motion, seconded by Councilmember Hubert, to table to September 3, 2003. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Ordinances - First Reading/Quasi Judicial Items (Second and Final Reading to be held September 3, 2003)

- 6.6. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM P.U.D. (COUNTY), PLANNED UNIT DEVELOPMENT DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Town of Davie, 4703 SW 148 Avenue) (tabled from August 6, 2003) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

- 6.7. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 1-2-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO GRIFFIN CORRIDOR DISTRICT (WEST GATEWAY USE ZONE 1); AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-2-03, Miller, Legg & Associates, Inc./Centex Homes Inc., 6800 Griffin Road) (tabled from August 6, 2003) *Planning and Zoning Board recommended denial*

Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 3, 2003.

Mayor Truex turned the meeting over to Mr. Kiar. Mr. Kiar advised of the procedures for quasi-judicial hearings and swore in the witnesses. Mr. Leiva read the planning report.

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Bill Laystrom, representing the petitioner, displayed the site plan and stated that the density chosen was the same as allowed in the Land Use Plan. He stated that a number of meetings had been held with the residents regarding their concerns with the traffic issues. Mr. Laystrom indicated there would be no access on SW 70th Avenue and the site plan was changed to allow access only on Griffin Road. He stated that the proposed zoning change did not constitute a grant of special privilege. Mr. Laystrom stated that the proposed zoning designation was the most appropriate designation to enhance the Town's tax base.

Mike Nisenbaum, also representing the petitioner, stated that they had met with staff and several residents and felt that they had done everything they could to meet with the residents' concerns, specifically that the site was redesigned due to residents' concerns about traffic issues.

Andy Manning, also representing the petitioner, discussed the style of architecture chosen for the project. Mr. Laystrom indicated that the developer had committed to tying the COs to the commercial buildings with the last three residential buildings, assuring Council that both products would be completed at the same time.

Mr. Kiar opened the public hearing portion of the meeting.

Arthur Pollio, 6741 SW 55 Street, stated that he has been a real estate broker for 26 years and had brought several projects to the Town. He spoke in opposition to this project and stated that several projects were forthcoming that would be better suited for this property. Mr. Pollio urged Council to preserve this area as an equestrian-friendly part of Davie.

Michael Gillis, 7001 SW 49 Street, felt this project was not suitable for this property and felt it would decrease the value of the surrounding homes.

Rick Von Minden, 6821 SW 55 Street, spoke in opposition to the property and indicated that the applicant's traffic studies were flawed. He felt that the required turns necessary to leave SW 70 Avenue would create a major traffic hazard. Mr. Von Minden stated that he would like to see the rural lifestyle of Davie maintained.

Jack Levy stated that he moved to Davie for the rural lifestyle and was concerned about the traffic issue.

Joe Cosner, 4451 SW 77 Avenue, spoke in opposition to the project and indicated that this was not the intent of the Griffin Road Corridor District. He felt that the expansion of the properties would set a precedent in other areas that may be irreversible.

Paul Wunderlich, 4741 SW 72 Avenue, voiced his opposition to the project.

Natalie Osterhoudt, 5101 SW 73 Avenue, spoke in opposition to the project. She stated that she felt the property would be better suited for an equestrian park.

Raphael Santiago, 5101 SW 73 Avenue, spoke in opposition to the project and felt that the Town needed to maintain its integrity as a rural community. She urged Council to deny the request.

Jessie Durko urged Council to wait for a better offer to develop the proposed area. He felt that the project would negatively affect Davie's quality of life.

Linda Slaughter, 5075 SW 70 Avenue, spoke in opposition to the project and stated that she had recently installed automatic gates on her property due to the excess traffic from the widening of Griffin Road. She felt that this property would bring additional traffic and would be extremely dangerous to the area.

George Poulos, 5100 and 5400 SW 70 Avenue, thanked the Planning and Zoning Board for unanimously rejecting the project as it would not fit in the proposed area.

Burton Horowitz, 5050 SW 70 Avenue, asked Council why the applicant needed to create a buffer zone and felt that 70th Avenue could not support the additional traffic this project would bring in. He stated that 70th Avenue was already a dangerous road and urged Council to deny the request.

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Gail Scopinich, 4810 SW 70 Avenue, stated that 70th Avenue was a scenic corridor and the project did not deserve to be put on a scenic corridor. She stated that to allow the development would be a dereliction of Council's duties to the residents.

Ron and Donna Heron, 4820 SW 70 Terrace, stated that 70th Avenue was a scenic area and there were no sidewalks for current residents in the area. Mr. Heron felt that to allow this project to bring in an additional 162 families would be extremely dangerous, creating a tremendous traffic problem. Mrs. Heron thanked Council for their resolve and asked that they look out for the best interests of the residents.

Joe Mangravito thanked Council for their commitment to the integrity of Davie and urged them to keep that commitment when making their decision.

David Sexton spoke in opposition to the project and stated that the notice of the public hearing was not performed according to Code. He indicated that there was no signage at the site that indicated a public hearing. Mr. Sexton stated that a vote in favor of the project without a proper traffic study was a rush to judgment.

Gary Stryder, 4820 SW 70 Avenue, spoke in opposition to a multi-family project.

Steven Deutsch, representing property owners, thanked Council for their patience and personal attention to Davie residents. He stated that he took exception to the way Centex was being characterized and felt they were trying to work with the residents.

Debbie Venturi, 4900 SW 70 Avenue, stated that this project directly impacted her as it was in her backyard. She felt that by approving the project, Council would be turning their backs on the citizens of Davie and would not be beneficial to the community. Ms. Venturi stated that this was a safety issue as well as having a major negative impact on the neighborhood and urged Council to deny the request.

Larry Venturi, 4900 SW 70 Avenue, voiced his concern that 70th Avenue would be used as a cut-through and would create an extremely dangerous situation.

Jay Abrahms, 4751 SW 70 Terrace, stated that he moved to Davie for the pasture land, cattle and horses and felt that this project would ruin that atmosphere.

Patricia Skelton, 5601 SW 39 Street, stated that although she did not live in the area affected, she wanted to be able to live on an acre homesite in the future and felt that if this project was approved, that option would not be available to her in the Town.

Scott Morecroft, 4650 SW 70 Terrace, spoke in opposition to the project. He voiced concern regarding where the additional families' children were going to go to school which were currently overcrowded.

Steve Lewis, 4800 SW 70 Avenue, stated that the Town should use the area as an equestrian park and urged Council to vote against the request.

Paul Iyac, 4800 SW 70 Terrace, stated that rather than rush to develop new projects, the Town should put their energy into improvements such as speed bumps and sidewalks. He felt that the project did not fit the quality of the neighborhood.

Lynn Smith, 5050 SW 70 Avenue, questioned Mayor Truex as to why he would attend a meeting with the Department of Transportation and Centex. Mayor Truex stated that he would explain later in the meeting.

Mr. Kiar closed the public hearing portion of the meeting.

Mr. Laystrom spoke regarding some of the issues that were raised by the residents, specifically density, traffic and the access road. He indicated that a traffic study had been done and was available to anyone who wanted to see it. Mr. Laystrom stated that Council needed to send a message that there was a balance of housing and economic development with preservation of neighborhoods. He stated that they were following Code and stated that Centex was trying to make 70th Avenue a safer road. Mr. Laystrom stated that to deny the project, Council would be denying improvements. He asked Council for their support.

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Mr. Nisenbaum spoke about the traffic safety issues and stated that the petitioner was dedicating a right-of-way with sidewalks to make 70th Avenue safer. Mr. Nisenbaum addressed the issue regarding open space and indicated that they had 20% more open space than required by Code.

Councilmember Paul disclosed that she had spoken with Tony and Dave Sexton and Mr. Laystrom and she had received a number of e-mails. Vice-Mayor Starkey disclosed that she had spoken with a number of people in the community and the applicant and also had received e-mails. Mayor Truex disclosed that he had spoken with the applicant, residents, attended a few meetings and spoke with individuals with the Department of Transportation as well as receiving e-mails and letters. Councilmember Crowley disclosed that he spoke with Mr. Laystrom and had attended two meetings at the Davie School and spoke with several residents during these meetings. Councilmember Hubert disclosed that she had spoken with Mr. Laystrom, Rick Stran, and Michael Fenonich and received several e-mails.

Mayor Truex stated that he would be voting against the project and advised that he lived very close to the area, as did his parents. He stated that this was a 100% improvement over what originally was brought forward; however, he felt the concept was not feasible. Mayor Truex indicated that he agreed with the residents that this project did not fit in with the Griffin Road corridor. He stated that if approved, he feared that the traffic circulation on 70th Avenue would be difficult to get in and out of. Mayor Truex felt that staff was encouraging and promoting the townhouse concept and this was not what the residents had in mind. He added that it would definitely affect the property values and was unfair to adjoining neighbors. Mayor Truex stated that the applicant had a stake in the property and asked him to meet with the Department of Transportation. He stated that the reason he met with the Department of Transportation was to advise them that the Town would not allow access onto 70th Avenue.

Councilmember Crowley thanked the residents for coming out and stated that he too was a neighbor to the project. He felt that there were areas along Griffin Road closer to University Drive or Davie Road Extension that were better suited for the project. Councilmember Crowley stated that he was not in favor of the project in a rural area.

Councilmember Hubert asked Mr. Laystrom how many houses would fit on the property if there were one house per acre. Mr. Laystrom stated that 26 or 27 single family homes would fit under the Town's Code. Councilmember Hubert asked if Centex would reconsider constructing single family homes. Mr. Laystrom indicated that it would not be economically feasible.

Vice-Mayor Starkey did not feel this project was the intent of the Griffin Road corridor and stated that the Town was striving to maintain one unit per acre. She stated there were traffic concerns and felt there were too many problems with the project. Vice-Mayor Starkey advised that she wanted to maintain the equestrian community as much as possible and did not want to disrupt that. She suggested that the developer work with the community to come up with a better plan in an attempt to resolve the traffic issues that she felt were a definite concern.

Councilmember Paul felt that property values would be adversely affected and that the increased traffic was definitely a concern. She stated that she agreed with the other members of Council that the extension of the corridor was not the intent. Councilmember Paul added that she was pleased with Council for listening to the recommendation of denial by the Planning and Zoning Board.

Mr. Laystrom requested that applicant be permitted to withdraw their application. Mayor Truex asked Mr. Kiar if they had the right to withdraw. Mr. Laystrom assured residents that Centex would not be back and stated that Council could waive the one-year requirement. Mr. Kutney stated that staff believed the application could be withdrawn. Mr. Kiar read the Code regarding application withdrawal. Mayor Truex indicated that the legal issues were unclear. Attorney Andre Parke stated there was no legal precedent in the Code.

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Councilmember Crowley made a motion, seconded by Mayor Truex, to deny. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Later in the meeting, Mr. Kiar read Section 12-307 (A)(2) which allowed an applicant to withdraw or amend an application at any time prior to a vote. He suggested that out of fairness to the applicant, Council may wish to reconsider the motion at the next Council meeting so that it is not discussed so late in the evening.

Councilmember Paul stated that they told the applicant that they could not do anything with the property for one year. Mayor Truex indicated that they could come in with an application to waive that decision which had been done in the past. Vice-Mayor Starkey was concerned with reconsidering the item without the presence of the residents.

- 6.8. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 3-4-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2 COMMUNITY BUSINESS DISTRICT TO RM-10, MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Merlo/Davie Road, LLC, 7901 Davie Road Extension) (tabled from August 6, 2003) *Planning and Zoning Board recommended denial***

Assistant Town Clerk McDaniel read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 3, 2003.

Mr. Kiar swore in the witnesses. Mr. Kutney summarized the rezoning request.

Hector Venis, representing the applicant, indicated that the design was kept in line with the Town requirements. He stated that the intent of the design was to make the units affordable to 80% of the median income which represented 60% of the County's population.

Ms. Taylor-Prakelt indicated that the project would be affordable to mobile home renters to become first-time homeowners. She stated that the developer had agreed to work with her office and the Broward County Housing and Finance which would provide purchasing systems. Ms. Taylor-Prakelt added that she strongly supported the project because there was a desperate need in Davie for home purchasing opportunities to the community.

Councilmember Paul questioned the price range. Mr. Venis indicated they would be between \$159,000 and \$169,000 and they were targeting the families with an income of \$48,000 or less.

Councilmember Paul asked if there were any figures regarding school-aged children. Vice-Mayor Starkey advised that the County did the impact analysis. Ms. Taylor-Prakelt did not think the school issue was a significant concern. Councilmember Paul inquired whether they were using flex units. Ms. Taylor-Prakelt indicated in the affirmative.

Vice-Mayor Starkey asked why the Planning and Zoning Board recommended denial. Mr. Parke advised that the Board felt that the application did not fit the overall area. Ms. Taylor-Prakelt believed it was because there was commercial versus residential from the density standpoint and not the type or caliber of the project.

Vice-Mayor Starkey disclosed that she had spoken to Ms. Taylor-Prakelt and felt the connection was very good with affordable housing and the overall plan. Vice-Mayor Starkey stated that mixed income families kept the community thriving and successful. Ms. Taylor-Prakelt stated there were no subsidies on the project and they were merely asking for the use of the flex units to meet the density on the site.

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Mr. Kiar opened the public hearing portion of the meeting.

Barry Wilen, attorney representing Dial Realty Corporation, read a letter to Council from his client, Allen Whinger, asking that they support the Planning and Zoning Board recommendation of denial. Mr. Whinger's letter stated that he was not opposed to affordable housing, but was opposed to multi-family housing. He stated he was vehemently opposed to the property and asked Council to deny the applicant's request.

Mr. Kiar closed the public hearing.

Mr. Venis stated that he discussed the proposal with Mr. Whinger, but he was not interested in seeing renderings or pictures to indicate that they were building a quality project. He stated that they would not be low income housing and would not be a rental unit.

Ms. Taylor-Prakelt stated she was unable to attend the Planning and Zoning Board meeting due to illness. She advised that she spoke with Mr. Whinger and he did not want to see the plans and told her that nothing she could say would change his mind. Ms. Taylor-Prakelt stated that the project would not decline the property values and urged Council to support the project.

Councilmember Hubert disclosed that she had spoken to Ms. Taylor-Prakelt on more than one occasion. Mayor Truex disclosed he had spoken with the applicant and the attorney.

Vice-Mayor Starkey asked Mr. Wilen what kinds of businesses were in the area. Mr. Wilen indicated that Mr. Whinger's son was able to respond better than he. An unidentified man stated that there were architects, accountants, a mortgage company and a construction company office.

Mayor Truex asked if the reason there was no land use was because of the flex units. Mr. Kutney replied in the affirmative.

Councilmember Hubert stated she liked the project and felt it was something the Town needed. Vice-Mayor Starkey stated she was supportive of the project.

Councilmember Paul agreed that affordable housing was needed, but was concerned with being consistent as far as changing the use of property. She felt that the Town should have done more to market the property and find a good match for a commercial project. Ms. Taylor-Prakelt indicated that the project was located in a targeted redevelopment area and stated there was no development potential from a commercial standpoint.

Mr. Wilen stated that this issue had been previously tabled twice and stated that since Mr. Whinger was currently out of town, he requested that the item be tabled to September 3, 2003 to give Mr. Whinger the opportunity to attend and come before Council. Mr. Venis stated that Mr. Whinger had already stated his opinion in his letter and at the Planning and Zoning Board meeting.

Mayor Truex stated that he would be voting against the project and was not in favor of trading units for affordable housing. He added that he was aware that it was a hardship to carry vacant land, but the people had a right to rely on the Master Plan. Mayor Truex stated that if the vote did go in favor, he would hope that the site plan would be tabled until the second reading. Mr. Kutney indicated that staff had recommended tabling until the second reading.

Vice-Mayor Starkey stated she felt this was a compatible land use and was in favor of supporting the project.

Mayor Truex re-opened the public hearing portion of the meeting.

John Parker, 6350 West Falcon's Lea Drive, was sworn in and asked if the neighbors were informed about the public hearing. He stated that his mother lived on the property adjacent to the project and was not informed of the public hearing. Mr. Kutney stated that according to records, Mr. Parker's mother had received notice of the meeting. Mr. Parker requested that the item be tabled to give residents an opportunity to speak before Council. He was advised that it was a first reading and public would be given another opportunity.

Mayor Truex closed the public hearing.

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Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - no. (Motion carried 3-2)

- 6.9. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1 (COUNTY), AGRICULTURAL DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Town of Davie, 8100 Stirling Road) (tabled from August 6, 2003)
Planning and Zoning Board recommended denial with the recommendation of rezoning to the least intensive commercial zoning to retain more control over the uses as there was not a conceptual site plan presented with this B-3 rezoning request

Assistant Town Clerk McDaniel read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 3, 2003.

Mr. Kiar swore in the witnesses.

Mr. Kutney indicated that the quasi-judicial hearing was held on August 6, 2003. He gave an update which consisted of an e-mail from Planner Brad Swing.

Robert Legg, representing the petitioner, concurred with Mr. Kutney and indicated that he had met with the homeowners.

Mr. Kiar opened the public hearing portion of the meeting.

Monique Montero, 7923 NW 38 Court, indicated that the residents had met with the applicant, but there were three additional items that the parties had agreed to. She submitted a list of conditions that the homeowners and the applicant had agreed to which included additional vegetation, lighting restrictions and hours of operation. The agreement was submitted as Exhibit A.

Vice-Mayor Starkey disclosed that she met with Mr. Legg and residents regarding hours of operation. Mr. Legg stated that there would be no deliveries between the hours of 7:00 p.m. and 7:00 a.m.

Vice-Mayor Starkey was concerned whether an agreement had been reached regarding the vegetation along the wall. Councilmember Paul asked if the wall was a sound wall or just a site wall. Mr. Legg indicated it would be utilized as a sound buffer.

Councilmember Crowley asked for clarification on the restriction of businesses to ensure that there would not be nightclubs or 24-hour businesses allowed to operate there. Mr. Kutney indicated that the verbiage indicating "family-owned" implied that a 24-hour business could not be operated.

Mr. Kiar closed the public hearing portion of the meeting.

Vice-Mayor Starkey disclosed that she had spoken with Mr. Legg and residents in the community as well as receiving e-mails. Councilmember Paul disclosed that she had spoken to several people at the last meeting. Mayor Truex disclosed that he had spoken to the same people that he disclosed at the last meeting. Councilmember Crowley disclosed that he had spoken to Mr. Legg, residents of Nova homes and residents of Silverado. Councilmember Hubert disclosed she spoke to Mr. Legg and residents.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

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Quasi Judicial Item

- 6.10. **SPECIAL PERMIT** - SE 7-1-03, Somerset in Davie Charter School/Deutsch, corner of Orange Drive and Pine Island Road (B-3) (for a modular building to be used as temporary classrooms on the subject site) *Planning and Zoning Board recommended approval subject to providing landscaping with trees on the east and west sides of the trailer*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Leiva summarized the planning report.

Councilmember Paul asked what the reaction of the residents was regarding the temporary trailer. Mayor Truex stated that he had spoken with the residents and the concern was not with the trailer but with other issues. Mr. Leiva indicated that the concerns of the residents included the landscape buffering and traffic impact on the community.

Vice-Mayor Starkey questioned whether the traffic concerns would be addressed and asked how long the trailer would be on the site. Mr. Leiva indicated that the trailer would be there for 12 months. Vice-Mayor Starkey asked if the traffic concerns would be rectified by that time. Mr. Leiva indicated that the Town Engineer would be meeting with the Florida Department of Transportation and could not respond to the traffic concerns. Vice-Mayor Starkey stated that if there were unresolved issues regarding the traffic circulation problems that cannot be rectified she felt that 12 months was unrealistic. She stated her concern was whether the traffic concerns could be resolved.

Fernando Zuleweto, representing the petitioner, stated that the traffic was an issue in that location with or without the school, but the petitioner was working with the residents for alternative solutions. He stated that the aesthetics had been redesigned to accommodate the residents and that this facility was temporary.

Vice-Mayor Starkey asked if the school would be built by next year. Mr. Leiva indicated that he was unable to answer the question and added that it relied upon how quickly the applicant could receive permit approval. Mr. Zuleweto indicated that a third campus in Pembroke Pines was built in six months.

Councilmember Paul was concerned with the children's safety regarding the trailer being between a gas station and a discount auto parts store. Mr. Zuleweto indicated that this facility would be fenced off and that the modular building was a classroom building. He stated that once the school was built and the modular was removed, parking would be where the modular was. Mr. Zuleweto stated that the children would have no access to the gas station and the drop off would be directly in front of the modular.

Councilmember Crowley asked staff if the applicant would be required to do site improvements as far as drainage prior to erecting the trailer. Mr. Leiva indicated in the affirmative. Mr. Zuleweto stated that they were required to submit drainage plans and make improvements.

Councilmember Crowley asked Mr. Zuleweto if the drop off was an ingress/egress easement. Mr. Zuleweto stated that the drop off was contained inside the property.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Vice-Mayor Starkey disclosed that she had spoken to the president of the Pine Island Bay Homeowners Association and had attended the Planning and Zoning Board meeting. She also spoke with the applicant. Mayor Truex disclosed he spoke with Barbara Calaberra.

Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

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Items to be Tabled or Withdrawn

6.11. STAFF REQUESTING A TABLING TO SEPTEMBER 3, 2003

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SECTION 12-238(J)(9) THEREOF RELATING TO BILLBOARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from August 6, 2003)

This item was tabled earlier in the meeting.

6.12. STAFF REQUESTING A TABLING TO SEPTEMBER 3, 2003 DUE TO AN ADVERTISING ERROR

ORDINANCE AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA RELATING TO ORDINANCE NO. 96-33, THE FIRE RESCUE ASSESSMENT ORDINANCE; AMENDING 2.13, "INTERIM ASSESSMENTS;" AMENDING THE DEFINITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

6.13. STAFF REQUESTING A TABLING TO SEPTEMBER 3, 2003

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)7-3-03, AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF DAVIE, AMENDING SECTION 12-503 ENTITLED "DEFINITIONS", AMENDING SECTION 12-33 ENTITLED "GENERAL REGULATIONS", PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

6.14. WITHDRAWN BY STAFF

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)7-2-03, AMENDING THE CODE OF ORDINANCES OF THE TOWN; AMENDING SECTION 12-32, ENTITLED "TABLE OF PERMITTED USES"; AMENDING SECTION 12-34 "ENTITLED "STANDARDS ENUMERATED"; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was withdrawn earlier in the meeting.

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6.15. WITHDRAWN BY STAFF

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING ORDINANCE 74-33 BY AMENDING RULE X, SECTION 3(c) OF THE TOWN OF DAVIE'S PERSONNEL RULES AND REGULATIONS REGARDING VACATION LEAVE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from August 6, 2003)

This item was withdrawn earlier in the meeting.

7. APPOINTMENTS

No appointments were made.

- 7.1. Agricultural Advisory Committee (one exclusive appointment - Vice-Mayor Starkey; term expires April 2004) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)
- 7.2. Child Safety Board (one exclusive appointment - Vice-Mayor Starkey; term expires April 2004) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)
- 7.3. Open Space Advisory Committee (one exclusive appointment - Vice-Mayor Starkey; term expires April 2004)
- 7.4. Senior Citizen Advisory Board (one exclusive appointment - Mayor Truex ; term expires April 2004) (members shall be a minimum 60 years of age)
- 7.5. Water and Environmental Advisory Board (two exclusive appointments - Mayor Truex; term expires April 2004) (insofar as possible, one member of the board shall be a licensed engineer)

8. OLD BUSINESS

- 8.1. Computer Usage - Mayor Truex

9. NEW BUSINESS

- 9.1. Charter Amendments - Mayor Truex
- 9.2. Site Plan Notification Process
- 9.3. Greenspace Application - Mayor Truex

Earlier in the meeting, Programs Administrator Chris Kovanes indicated that there would be a meeting with the Land Preservation Board. He stated that this item required Council to give direction to agendize the issue at the Land Preservation Board meeting. Mr. Kovanes stated that they needed to tell the County to remove all exotics, enter into an interlocal agreement and manage the site.

Mayor Truex questioned where the property was located. Mr. Kovanes indicated the property was located just east of Old Davie School. Mayor Truex indicated the property was currently for sale.

Councilmember Paul questioned why this item was on the agenda of the Land Preservation Board prior to coming before Council. Mr. Cohen stated it was a time issue and needed to be moved quickly.

Mayor Truex indicated this did not need to go through the same process. He stated that one of the keys was that the Town could keep existing structures, but could not build on the greenspace. He stated

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that if it was tabled, they would miss the window and not be able to purchase the property. Mr. Kovanes explained that the Land Preservation Board would require due diligence and practice the County's acquisition which would be 10% above the mean of both appraisals. He stated that it would take at least six months for acquisition to occur.

Mr. Cohen stated that it was put on the agenda at the earliest convenience. He stated that staff was given 24 hours to respond and they came before Council immediately for direction of whether to pursue or withdraw. Vice-Mayor Starkey felt that Council should have been given some type of circulation and been informed.

Councilmember Hubert asked if the Town was interested in buying the property and giving it to the Old Davie School. Mr. Cohen indicated that the property would not be purchased, but would be contributing to removing the exotics.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

9.4. Amateur Softball Association of America National Tournament - Mayor Truex

Earlier in the meeting, Mr. Cohen indicated that this was a national tournament to be held in 2005. He stated that the tournaments were bid upon by various communities and the County would like the Town to commit to allow them to use the Town's facilities for these tournaments.

Councilmember Paul questioned if it would be a problem getting the fields back in shape. Parks and Recreation Director Dennis Andresky stated that past tournaments had not had any adverse affect.

Mr. Cohen indicated that the group was asking for a discount and advised that the cost to the Town would be between \$3,000 and \$5,000. Mayor Truex stated that he felt it was important to support sports. Vice-Mayor Starkey requested that local businesses be advertised. There were no objections from Council.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to roll over all items that were not discussed to September 3, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

10. MAYOR/COUNCILMEMBER'S COMMENTS

HOPE OUTREACH. Councilmember Hubert requested that the Town help Hope Outreach prior to budget approval. Mr. Willi stated that the Town could help but questioned where the Town drew the line because in 30 days, Hope Outreach may come back and said they need additional funds. Vice-Mayor Starkey questioned Councilmember Hubert about the amount Hope Outreach was looking for and indicated that Soroptomist might be able to contribute. Councilmember Hubert indicated that whatever was available would be needed. Mr. Willi indicated that the Town could come up with \$2,000-\$2,500 and then return to Council. Mayor Truex stated he had no objection to \$2,500, but the Town was not designed to be a welfare agency and could not help everyone. Councilmember Hubert asked if Council would support a fundraiser. Vice-Mayor Starkey indicated that several members had done fundraisers to help Hope Outreach.

Councilmember Hubert made a motion, seconded by Vice-Mayor Starkey, to give Hope Outreach \$2,500 as quickly as possible. In a voice vote, all voted in favor. (Motion carried 5-0)

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were made.

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12. TOWN ATTORNEY’S COMMENTS

PELICAN HOLDINGS, INC. Mr. Kiar stated that Pelican Holdings, Inc. was seeking \$15,640.68 in attorney's fees and costs; however, Council had authorized a counterproposal of \$6,500. He indicated that Pelican Holdings came back with a counteroffer of \$9,336.68, of which \$1,474.18 was recoverable in costs. Mr. Burke indicated that the Town could appeal and he would like Council's direction of whether to accept the counterproposal of \$9,336.68.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to settle to counteroffer of \$9,336.68. In a voice vote, all voted in favor. (Motion carried 5-0)

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 2:28 a.m.

Approved _____

Mayor/Councilmember

Town Clerk